
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No.: 5:23-cv-00574-FWS-MAA
Title: Leon Atkins v. Linesey McDowell *et al.*

Date: October 3, 2023

Present: **HONORABLE FRED W. SLAUGHTER, UNITED STATES DISTRICT JUDGE**

Melissa H. Kunig
Deputy Clerk

N/A
Court Reporter

Attorneys Present for Plaintiff:

Attorneys Present for Defendants:

Not Present

Not Present

**PROCEEDINGS: ORDER TO SHOW CAUSE WHY ACTION SHOULD NOT BE
DISMISSED FOR LACK OF PROSECUTION**

On March 27, 2023, Plaintiff Leon Atkins (“Plaintiff”) filed a Complaint and Request to Proceed Without Prepayment of Filing Fees (“IFP Request”). (Dkts. 1, 2.) On May 19, 2023, the court postponed ruling on Plaintiff’s IFP Request and ordered that Plaintiff submit a certified copy of a trust fund statement for the last six months within thirty (30) days of the Order, or by June 19, 2023. (Dkt. 5.) On June 5, 2023, Plaintiff filed a second IFP Request attaching two documents: (1) an order slip from the Robert Presley Detention Center showing that Plaintiff purchased an “indigent kit” for \$0.00 on May 2, 2023; and (2) another order slip showing that Plaintiff purchased a second “indigent kit” for \$0.00 on May 25, 2023. (Dkt. 7.) Neither document is a certified copy of a trust fund statement for the last six months. (*Id.*)

On August 17, 2023, the court ordered Plaintiff to show cause in writing (“OSC”) why this case should not be dismissed for lack of prosecution because Plaintiff had not filed any additional documents supplying a certified copy of a trust fund statement. (Dkt. 8.) On August 28, 2023, the mailing containing the OSC was returned. (Dkt. 9.) The same day, Plaintiff filed a notice of change of address. (Dkt. 10.)

Given Plaintiff’s change in address, the court again **ORDERS** Plaintiff to show cause in writing no later than **November 3, 2023**, why this action should not be dismissed for lack of prosecution. Plaintiff may discharge the Order to Show Cause by filing a certified copy of a

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trust fund statement for the last six months that complies with the court’s May 19, 2023, Order. Failure to adequately comply with the court’s order may result in dismissal. *See* Fed. R. Civ. P. 41(b); *Link v. Wabash R.R. Co.*, 370 U.S. 626, 629 (1962) (“The authority of a federal trial court to dismiss a plaintiff’s action with prejudice because of his failure to prosecute cannot seriously be doubted.”); *Hells Canyon Pres. Council v. U.S. Forest Serv.*, 403 F.3d 683, 689 (9th Cir. 2005) (“[C]ourts may dismiss under Rule 41(b) sua sponte, at least under certain circumstances.”); *Ash v. Cvetkov*, 739 F.2d 493, 496 (9th Cir. 1984) (“It is within the inherent power of the court to sua sponte dismiss a case for lack of prosecution.”).

IT IS SO ORDERED.

Initials of Deputy Clerk: mku